IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Writ Petition No. 237 2004(S/B)

Date of decision: 20th August, 2004

For the approval of:

Hon'ble Mr. Justice V.S. Sirpurkar.

Hon'ble Mr. Justice J.C.S Rawat

- Whether the order/judgment should be sent to the reporters for reporting? (yes)

- Whether the reporters be allowed to see the judgment (yes)

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IN THE HIGH COURT OF UTTARANCHAL AT NAINITLA

Writ Petition No. 237 of 2004 (S/B)

Rajendra Bahadur Katiyar,
S/o Shri R.S. Katiyar,
Lecturer (Non-Technical)/Officiating Principle,
Government Polytechnic, Lohaghat,
Champawat. …….. Petitioner.

Versus

State of Uttaranchal,
Through Secretary (Technical Education),
Human Resource Development Department,
Uttaranchal, Dehradun & others. ……. Respondents

Mr. Rakesh Thapliyal, learned counsel on behalf of the petitioner.
Mr. K.P. Upadhyaya, learned Brief Holder for the state.

Coram: Hon. V.S. Sirpurkar, C.J.
Hon. J.C.S. Rawat, J.

Date: 20th August, 2004

(Per Hon'ble the Chief Justice)

1. Heard Mr. Rakesh Thapliyal, learned counsel for the petitioner and Mr. K.P. Upadhyaya, Brief Holder for the State.

2. In this writ petition, the petitioner is challenging the order dated 5.08.2004 by which the respondent No 4 has been asked to officiate in post of Principal of the College in place of the petitioner, who was, hitherto, officiating. The petitioners claim that he, having put in more than 15 years of service, has become eligible to be appointed as a Principle while the respondent No. 4 has not so become. It is on this ground that the petitioner claims to be senior to respondent No. 4 and on that basis, claims a right to officiate as a Principle. It is liable to be see that the post of Principle has fallen vacant on account of the earlier Principle retiring.

3. The basic infirmity in the petition is that the petitioner is comparing his case with the respondent No. 4, when the petitioner is, admittedly, class II officer while respondent No. 4 is a directly selected and appointed Head of the Department. Right form the

beginning, respondent No. 4 drew a pay scale of Rs. 10,000-15,200/- while the petitioner was elevated to that scale only after he completed 8 years of service.

4. From this, Mr. Rakesh Thapliyal, learned counsel appearing on behalf of the petitioner would want us to hold that the petitioner, having put in, in all, 15 years of service, has gone into the zone of consideration and on that account, he can be appointed as a Principal. That may be so. However, the petitioner cannot claim any right to officiate because it is the basic principle of service jurisprudence that there is no right to officiate. The officiating appointments are always temporary in nature and do not create any right thereto. If that is so, then the petitioner cannot claim to officiate merely on type basis of his long service which the petition is only a Class II officer while respondent No. 4 is a Class I officer. It is unthinkable that with the availability of Class I officer, a Class II officer, who is working as a Lecturer, would be allowed to officiate in the post of Principal.

5. We do not see any merits in this writ petition. The writ petition is, accordingly, dismissed.

(J.C.S. Rawat, J.)
20.08.2004

(V.S. Sirpurkar C.J.)
20.082004

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